* IN THE HIGH COURT OF DELHI

\+ **Arbitration Petition No.100/2007**

% Date of decision : 27.07.2007

DR.SUNAINA ROHTAGI ... PETITIONER

Through: Mr.Vikram Mahajan, Advocate

- VERSUS -

SH.NARENDER KUMAR ...RESPONDENT

Through: Mr.Pawan Upadhyay, Advocate

CORAM:
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

1. Whether the Reporters of local papers may be allowed to see the judgment? No
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported in the Digest? No

SANJAY KISHAN KAUL, J. (ORAL)

(1)The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator to adjudicate the disputes between the parties in view of

the agreement to sell dated 18.11.2005 executed by the respondent in favour of the petitioner in respect of Shop No.3, Pocket III, Mayur Vihar-I, New Delhi measuring 12.10 square metres. The agreed consideration is stated to be Rs 17 lakh out of which Rs 1,04,000/- was paid as earnest money. The agreement contains an arbitration clause which resulted in filing of the present petition. The reply has been filed by the respondent in which he has not disputed the agreement or receipt of the earnest money. It is however the stand of the respondent that he does not want to proceed with the sale due to personal reasons. In view of the aforesaid pleadings on the last date of hearing, learned counsel for the parties had taken time to seek instructions and it is stated today that the parties have settled their disputes in the following terms:

i) The respondent shall pay to the petitioner a sum of Rs 1,32,500/- which would include the amount of earnest money and interest due thereon and such payment to be made on or before 31.08.2007;

ii) In case of failure of the respondent to pay the aforesaid amount within the stipulated time, the respondent will execute the sale deed in favour of the petitioner in terms of the agreement to sell dated 18.11.2005 without any further objections; and

iii) The petitioner has agreed to not enforce the agreement to

sell dated 18.11.2005 in view of the difficulty expressed by the respondent that the shop was his only source of livelihood and the sale of the shop would make him jobless. It is thus agreed that if on any future date, the respondent wants to sell the shop, the plaintiff would have the first right to purchase the shop and such an arrangement would continue for a period of five years. In case of eventuality aforesaid, the price payable by the petitioner would be as specified in the agreement to sell dated 18.11.2005 with an escalation of 10 per cent per annum on the agreed amount being calculated on a compound basis annually.

(2)The petitioner is present in court as also the respondent and his wife and the agreement has been arrived at out of the free consent of the parties who have affirmed to the same in the Court. The parties and the counsels have signed the order sheet in token of acceptance of what is recorded in the Order.

(3)The petition stands disposed of leaving the parties to bear their own costs.

July 27, 2007 SANJAY KISHAN KAUL, J.
dm